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Via IZIS

Anthony Hood, Chairperson
District of Columbia Zoning Commission
441 4th Street, NW, Suite 200-S
Washington, DC 20001

Re: Z.C. Case No. 05-28AH: Application for the Extension of Time of the Approved First-Stage Planned Unit Development (“**Parkside PUD**” or “**PUD**”) and Zoning Map Amendment for Parkside (Square 5055, Lot 26) (“**Property**”)

Dear Chairperson Hood:

Lano Parcel 12, LLC (“**Applicant**”) hereby requests a two-year extension of the First-Stage approval of the Parkside PUD. The Parkside PUD was initially approved pursuant to Zoning Commission Order No. 05-28 in April 2007 (“**Order**”). The existing First-Stage PUD approval, as previously extended, expires on October 3, 2024, and the Applicant requests a further extension of the First-Stage PUD approval for two years, through October 3, 2026. This extension request is made pursuant to Subtitle Z, Sections 705.2 and 101.9 of the 2016 Zoning Regulations.

The Applicant recognizes that this time extension request exceeds the number of time extensions contemplated under the Zoning Regulations and, as a result, the Applicant respectfully also requests a waiver from that limitation.

Background on the Parkside PUD

A. First-Stage PUD

The Order approved approximately 3 million square feet of mixed-use development on approximately 15 acres of vacant property east of the Anacostia River in Ward 7. Specifically, it approved 1,500-2,000 residential units; 500,000-750,000 square feet of office space (convertible to residential units), and 30,000-50,000 square feet of retail, with a maximum height of 110 feet for two office towers and a maximum height of 90 feet for the residential buildings. The Order includes a robust package of public benefits, including 20% of the units affordable at 60% MFI, a public park, and a \$3 million contribution to the now-complete pedestrian bridge over 295 to the

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Minnesota Avenue Metrorail station, among many other benefits created in close coordination with the residents of nearby neighborhoods and through a strong relationship with ANC 7D. The Order also approved the rezoning of the Property from the R-5-A and C-2-B Zone Districts to the C-3-A and CR Zone Districts.¹

B. Second-Stage Applications Approved

Attached as Exhibit A is a chart listing the many benefits and amenities that were approved in the First-Stage PUD, as modified, and that have been provided to date. The Applicant has delivered the numerous benefits that were promised as part of the original First-Stage PUD and has added to the list of benefits and commitments throughout the many Second-Stage PUDs since.

Attached as Exhibit B is a summary of all the cases that have followed out of the original First-Stage approval.² The Applicant has continuously pursued Second-Stage PUDs to implement the vision of the First-Stage PUD including the following approved Second-Stage applications:

- Z.C. Case Nos. 05-28A and 05-28G: In 2008, the Zoning Commission approved a Second-Stage PUD for Blocks A, B, and C. Victory Housing developed an all-affordable senior housing facility consisting of 98 units on Block A. The Applicant partnered with a townhouse developer to construct 100 single-family townhomes on Blocks B and C. The affordable senior housing facility has been constructed and has been operating for almost twelve years, and the senior units are affordable at a mix of 60% and 30% AMI. A certificate of occupancy for the senior housing is attached at Exhibit C. The townhomes have been constructed and all of them have been sold; 42 of the townhomes were sold to qualified workforce income level households.
- Z.C. Case Nos. 05-28B and 05-28I: In 2011, the Zoning Commission approved a Second-Stage PUD for the construction of a Unity Health Clinic on a portion of Block I. The 43,000 square foot health center has been constructed and operating for almost ten years. A copy of the certificate of occupancy for the center is attached at Exhibit C.
- Z.C. Case No. 05-28F: In 2011, the Zoning Commission also approved a Second-Stage PUD for the one-acre park at the center of the PUD. The park was completed in December 2014 and is currently maintained by the Applicant. Photographs of the park are attached at Exhibit C.
- Z.C. Case No. 05-28J/K: In 2014, the Zoning Commission approved a Second-Stage PUD for a multi-family building consisting of 186 affordable units on Block E. The

¹ A portion of the First-Stage approval of the Parkside PUD was modified by Z.C. Case No. 05-28E in 2011. The modification approved a change of use from residential to educational and health care uses, and it expanded the approved maximum height of 110 feet (and CR zone district) to include the educational site. The Commission has also approved a series of modest modifications to the zoning parameters of the First-Stage approval in Z.C. Case Nos. 05-28P through 05-28T. Finally, the Commission approved an interim park/playground use on a portion of Block H in Z.C. Case No. 05-28AB.

² The PUD was subsequently granted six separate two-year extensions in Z.C. Orders No. 05-28H, 05-28L, 05-28O, 05-28U, 05-28V, and 05-28AA and an administrative Covid-19 one-year time extension in Z.C. Order No. 05-28V(1).

units are rented to households with an annual income no greater than 60% AMI or 30% AMI depending on the unit. The affordability periods run for a term of 30 years. The building has been constructed and operating since early 2017. A copy of the certificate of occupancy is attached at Exhibit C.

- Z.C. Case No. 05-28P: In 2017, the Zoning Commission approved a Second-Stage PUD for a multi-family building consisting of 191 market-rate units on Block J. This building has been constructed and is more than 90% occupied as of the date of this filing. A copy of the certificate of occupancy is attached at Exhibit C.
- Z.C. Case Nos. 05-28Q, 05-28R/S, and 05-28Z: Beginning in 2017, the Zoning Commission approved Second-Stage PUDs for a mix of multi-family and townhouse buildings on Block F. The Applicant has made progress on all four multifamily buildings on Block F. All of the 25 townhouse units on Parcels 8 and 10 have sold and are occupied, and five sold to qualified workforce income level households. Parcel 8 delivered in September 2024 and is currently welcoming its first residents. Parcel 10 is expected to deliver in early 2025. Permits for Parcel 9A are underway and the permits for Parcel 9B are ready, awaiting only construction financing.
- Z.C. Case No. 05-28T: In 2017, the Zoning Commission also approved a Second-Stage PUD for a commercial office building consisting of approximately 500,000 square feet of gross floor area, including ground floor retail, on a portion of Block H. After many years of efforts to secure office tenants were unsuccessful, the Second-Stage PUD lapsed in 2024.

The chart below provides an overview of the number of residential units approved and constructed, as well as the amount of commercial square footage approved and constructed.

Residential Uses				
	Market Rate	Workforce	Affordable	Total
Approved in First-Stage PUD	60%	20%	20%	100%
Constructed + Approved³ to Date	619 (60%)	136 (13%)	284 (27%)	1,039
Non-Residential Uses				
	Health Care	Retail	Office	Educational
Constructed + Approved to Date	42,644 sf	36,946 sf	0 sf	0 sf
Approved in Parkside PUD Order	43,000	30,000-50,000 sf	500,000-750,000 sf	260,000 sf

C. Future Second-Stage PUD Applications

Three blocks (or partial blocks) of the Parkside PUD await a Second-Stage PUD: (i) Block G, (ii) Block H, and (iii) a portion of Block I. All of Blocks G, H, and I front on Kenilworth Avenue, NE. The First-Stage Order approved approximately 3 million square feet of development

³ The only approved, but not yet constructed units are those in Parcels 9A and 9B. Parcel 9A's building permits are underway and the building permits for Parcel 9B are already pulled.

for the entirety of the Parkside PUD, including approximately 500,000 square feet of residential development and 206,000 square feet of office or residential development on Block G, 700,400 square feet of office or residential development on Block H, and 260,000 square feet of educational development on the remaining portion of Block I.⁴ In sum, an extension of the First-Stage approval is necessary to allow Second Stage-applications for approximately 1.825 million square feet of remaining development.

Despite valiant efforts to secure an office tenant for Block H, the Applicant is now considering alternative uses to spur development on the Property. Further, the Applicant is attracting more attention for residential use as a result of Parkside's designation within an opportunity zone, in combination with the Mayor's initiative for more housing.

Accordingly, the Applicant has undertaken detailed planning with respect to Blocks G, H, and I, as shown on the attached Exhibit D. Importantly, these plans reflect input from ANC 7D existing residents in the Parkside community, including allocation of substantial green space at the entrance to Parkside from the new pedestrian bridge at the Minnesota Avenue Metrorail Station.

D. Affirmative Actions Taken

Since the last PUD time extension for the First-Stage PUD, the following measures have been accomplished with respect to the Parkside PUD (see affidavit attached as Exhibit E):

- The Applicant constructed a community playground and amenity area on Block H for residents to enjoy during the construction of Block F and Second-Stage PUDs for Blocks G, H, and I. Photographs are attached at Exhibit C.
- The multifamily building on Parcel 8 delivered in September 2024.
- The multifamily building on Parcel 10 is under construction with an expected delivery date of early 2025.
- An application for a building permit has been filed for the residential building on Parcel 9A. Construction is expected to commence by the second quarter of 2025.
- An application for a building permit has been pulled for the residential building on Parcel 9B. Construction is expected to commence by the second quarter of 2025.
- The Applicant has explored development partnerships with Victory Housing, a prominent hotel developer, an educational provider, and retail anchor tenants.
- The Applicant has undertaken detailed site planning and related architectural studies in anticipation of those potential development uses. See Exhibit D.

⁴ The Zoning Commission modified the First-Stage approval for Block I in Case No. 05-28E to allow approximately 43,000 square feet of health care uses and 260,000 square feet of educational uses. Second-Stage applications were subsequently approved to allow development of both the health care and educational uses. The health care center has since been built; however, the Second-Stage approval for educational uses has since lapsed, though the remaining First-Stage approval remains in effect. Approximately 159,000 square feet of development approved for Blocks A-F and J was not used in the construction of those Blocks and remains available under the First-Stage PUD for allocation to Blocks G, H, and I as part of a future Second-Stage PUD approval.

The Applicant has maintained a strong relationship with the nearby Parkside, Mayfair and Eastland Garden neighborhoods throughout the life of the Parkside PUD. With a standing monthly meeting with ANC 7D, the Applicant provides regular updates on the progress of the Parkside PUD and gathers community feedback. The Applicant plans to continue this clear and frequent communication with the community.

The Commission Should Grant the Requested Time Extension

A. Standards of Review of Time Extension Request

The standards for a time extension are enumerated in Subtitle Z Section 705.2 of the Zoning Regulations. The Commission is authorized to extend a PUD provided that:

- (a) The extension request is served on all parties to the application by the applicant and all parties are allowed thirty (30) days to respond;
- (b) There is no substantial change in any of the material facts upon which the Commission based its original approval of the application that would undermine the Commission's justification for approving the original application; and
- (c) The applicant demonstrates with substantial evidence one (1) or more of the following criteria:
 - (1) An inability to obtain sufficient project financing for the development, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control;
 - (2) An inability to secure all required governmental agency approvals for a development by the expiration date of the order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or
 - (3) The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the order.

Subtitle Z, Section 705.2.

In addition to the foregoing standard, Subtitle Z, Section 705.5 limits the number of time extensions to no more than two extensions and provides that the second extension may be approved for no more than one (1) year. Pursuant to Section 101.9, the Applicant requests that the Zoning Commission waive the requirements of Section 705.5 and approve this further time extension request. Section 101.9 allows the Commission to waive its rules if doing so will not prejudice the rights of any party and is not otherwise prohibited by law.

Over 1.17 million square feet of development has been approved through the Second-Stage PUD process and 313,000 square feet is currently under construction or pending commencement of construction. Not granting this extension request will threaten development of the remaining

approximately 1.825 million square feet of development rights as well as jeopardize the holistic vision of the Parkside plan. The three remaining Blocks are located in the most prominent position in the PUD, fronting on Kenilworth Avenue, NE. Allowing these parcels to revert to their former zoning designation would prevent the height and density appropriate for their location adjacent to the Metro and along I-295. The Parkside PUD was approved as a cohesive plan, with public benefits that are impressive even by today's standards, and leaving these significant parcels to chance would dissolve that vision. Granting this extension request will enable the Parkside PUD to provide the transit-oriented equitable development and economic development the District needs east of the Anacostia River.

B. The Application Satisfies the Standards for Granting Time Extension and Waiver

In this time extension application, the Applicant requests that it be allowed until October 3, 2026 to file one or more Second-Stage PUD applications for the remaining parcels of the Parkside PUD. In Z.C. Order No. 05-28AA, the Commission granted a two-year time extension through October 3, 2024.

Immediately prior to these most recent time extensions, the Zoning Commission approved five Second-Stage applications. See Z.C. Order Nos. 05-28P, 05-28Q, 05-28R, 05-28S, and 05-28T. These approvals accounted for 655 residential units (63% of approved residential use to date). Now that many of those Second-Stage PUD applications are completed or nearing completion, the last two years have been focused, in large part, on completing the remaining development of Parkside. As of today, all the approved residential units have been constructed or are in the process of obtaining a building permit for construction. The buildout of the Parkside PUD, with the exception of those parcels abutting Kenilworth Avenue, NE has required an immense amount of effort, community coordination, and investment. The Applicant is proud of where Parkside stands today; nevertheless, the three development blocks that will be the “face” of the Parkside community remain without a Second-Stage application having been filed prior to the October 3 deadline. As such, the First-Stage PUD must be extended to allow those development parcels to move forward as contemplated in the PUD.

1. The Applicant Will Serve the Parties to the First-Stage PUD

This request is being served on the ANC and the Parkside Townhomes, the only parties to the First-Stage PUD, on the same day as it is filed with the Zoning Commission. The Applicant asks that the Commission not place this request on its meeting agenda until the thirty-day period has lapsed.

2. No Material Facts Have Substantially Changed

There has been no substantial change in any material facts that would undermine the basis for the Commission's original approval of the First-Stage PUD.⁵ Those changes that have

⁵ The lapse of the Second-Stage PUD approval for office use on Block H is not a material change relative to the Order because the Order expressly allows either office or residential uses on Block H.

occurred support the basis for the original approval, including additional residential development in the vicinity of the PUD, as well as investment in the educational facilities in the Parkside community.

Additionally, the opening of the pedestrian bridge from the Minnesota Avenue Metrorail Station to the Parkside PUD is consistent with and supports the PUD by facilitating the transit-oriented aspect of the development. The pedestrian bridge, which the Applicant contributed \$3 million dollars to its construction, facilitates access to Metro for residents, as well as encourages daytime pedestrian traffic to the retail spaces.

As noted previously, policy changes have been pivotal in increasing interest in development east of the Anacostia River. Notably, because of the PUD site's designation as an "opportunity zone," the financial incentives of this designation have heightened interest in the remaining residential development blocks and helped facilitate the construction of those residential units already approved.

The First-Stage PUD remains not inconsistent with the Comprehensive Plan ("**Plan**"), as recently amended. The Plan emphasizes the need to ensure housing affordability for all incomes and household sizes. The plans for these parcels support housing affordability by dedicating 20 percent of the overall residential component of the First-Stage PUD to households with an annual income equal to or less than 60% of AMI and another 20 percent of the residential component to workforce housing for households with an annual income between 80 to 120 percent AMI. This infill development also provides a transit-oriented design with easy access to the Minnesota Avenue Metrorail Station, linking new housing to transit. These linkages to the Anacostia waterfront allow residents to more easily enjoy the District's resources. The construction of the new pedestrian bridge also improves safety for the Parkside residents and greater community.

The Plan identifies racial equity as a primary lens for the Commission's review and notes that equity considerations include meeting residents where they are with equitable opportunities.⁶ The Plan encourages equitable development, which is holistic in that it supports a community with housing, transportation, and access to education, healthcare, and employment opportunities.⁷ In particular, the Plan emphasizes that multimodal transportation must be equitable across the District.⁸

The Parkside PUD promotes the racial equity goals of the Plan. The development offers not only affordable housing, but an approximately 43,000 square foot health care center which has been built. The PUD is also built in close proximity to campus of educational uses, including Educare DC, Neval Thomas Elementary School, and Cesar Chavez Public Charter School, providing residents of the PUD easy access to educational opportunities. These health care and educational uses offer the holistic development the Plan envisions. The health care and retail uses

⁶ 10-A DCMR § 213.6.

⁷ *Id.* § 213.7.

⁸ *Id.* § 207.5.

also create employment opportunities for residents. The PUD supports equitable access to transportation through its investment in the construction of a new and safer pedestrian bridge to the Minnesota Avenue Metrorail Station, giving residents access to the greater city. Thus, the PUD has already contributed greatly to improving equitable access to transportation in the District.

Parkside provides educational and housing opportunities that lead to economic opportunities for Ward 7 residents. Importantly, the development did not displace any existing residences but has converted vacant land to residential housing. The Applicant fulfilled the affordable obligations of the PUD before building out all of the market rate units, ensuring that 284 households earning less than 60% of the Area Median Income have an opportunity to live in this development. From an equity perspective, the Project increases housing opportunities and affordable housing opportunities without any displacement of residents because it is all new development. The Project provides job opportunities with the clinic, as well as the newly constructed retail spaces, in addition to the construction opportunities that come with each new development. The Project will have an extraordinarily positive net impact on racial equity issues.

3. Good Cause Exists to Grant the Further Time Extension

As demonstrated in its previous extension requests, the Parkside PUD has been affected by several events that have slowed the development timetable, including the state of the residential, retail and office markets east of the Anacostia River, challenges in obtaining financing for mixed-income and mixed-use development, and the COVID-19 pandemic.

Still, since October 2022, the Applicant has continued to pursue the development of Parkside. For example, considering the success of the Victory Housing-developed senior affordable housing building on Block A, the Applicant engaged with Victory Housing to discuss development of another senior building on Block I. Although Victory Housing was open to and excited by the opportunity, due to a lack of funding for senior housing in the District, Victory Housing is unable to move forward at this time.

Further, the Applicant has engaged both lodging and large format retail users as occupiers of the undeveloped portions of the PUD. For the lodging user, continued uncertainty around underwriting and financing have brought discussions to a halt. Similarly, the large format retail user is unwilling to move forward amidst current market conditions. Finally, the Applicant continues to have detailed conversations with a K-12 education provider. However, the provider has yet to solidify its interest in light of the highly competitive education market.

Notwithstanding these ongoing efforts, the Applicant has continued to actively engage the community, follow through with previous commitments, and dynamically site plan the remaining PUD. Stemming from community discussion and dialogue, the Applicant has committed to making permanent some green space on portions of Block H. This green space will encourage additional pedestrian traffic and use of the now fully functional bridge to the Minnesota Metrorail Station. Notably, the Applicant has also completed construction of the playground on Block H, a well-received activation that was agreed to in 2022. More broadly, the community continues to

influence the site planning for future Second-Stage applications, as the Applicant remains committed to treating the community as a valued and influential stakeholder.

In terms of residential development, Parcel 8 was delivered in 2024 and Parcel 10 is currently under construction with an expected delivery of 2025. Permits for Parcel 9A are underway and the permits for Parcel 9B are ready for construction to commence in 2025. On the commercial side, the aforementioned struggles have posed significant challenges, and the Applicant is now open to non-office uses to complete development of the Parkside PUD.

The Applicant has also constructed 284 affordable residential units, all of which are available to families with an annual income no greater than 60% AMI and include units available to households earning 30% AMI. Collectively, these efforts signify that the Applicant has every intention of moving forward with the last three parcels of the PUD; it has simply needed to be strategic with its development timeline. The Applicant now seeks an additional two years for the First-Stage PUD approval.

4. The Time Extension Does Not Prejudice Any Party and Is Not Prohibited

The Commission's waiver on its limit on the number of times it may extend a PUD will not in this instance prejudice the rights of any party. Moreover, such a waiver is not otherwise prohibited by law. Accordingly, the Commission may grant such a waiver in this instance and such waiver will enable the PUD to continue development along with the equitable opportunities it offers.

Exhibits

Attached are the following Exhibits:

- Exhibit A – Summary of Public Benefits
- Exhibit B – Summary of Zoning Commission Actions
- Exhibit C – Evidence of Completion of Second-Stage PUDs
- Exhibit D – Detailed Plans for Blocks G, H, and I
- Exhibit E – Affidavit from Applicant
- Exhibit F – Letter of Authorization from the Applicant

Conclusion

For the foregoing reasons, the Applicant requests that the Commission grant the requested time extension and waiver of its rules with respect to the number of extensions that may be granted. Please feel free to contact the undersigned if you have any questions or comments regarding this application.

Respectfully Submitted,

/s/
Christine A. Roddy

/s/
David A. Lewis

/s/
Derick O. Wallace

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to the following by first-class mail or email by no later than October 2, 2024.

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